

HA Position

The version of the report proposed by HA is ~~not~~ the result of extensive discussions with ARA's Office of East Coast Affairs (ARA/ECA) during the period before Christmas which culminated in agreement on December 21st. The alternative version resulted from a post-holiday review of this text by the ARA front office.

The principal differences between the two reports lie in the introduction in the section on torture:

-- Introduction: HA believes that ARA's revision tends to give the unintended impression that the Argentina Junta's repressive activities are at least to some extent justified, that the tone is unduly upbeat and optimistic, and that it omits essential information about the nature and extent of human rights violations in the country. Although most of the latter are covered in the body of the report, it is important to treat them in the introduction because:

- the introduction sets the tone of the entire report;

- as ARA points out, many readers focus almost exclusively on the introduction, and

- as this is the first report on Argentina prepared during the Carter Administration, a more extensive treatment of historical antecedents is justified.

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Moreover, the length of the proposed introduction is not out of line with those in many of the other reports we have prepared this year. The introductions vary in length from a paragraph to four pages, in accordance with conditions in the country concerned. They tend to be longer for countries being covered for the first time, especially those with serious human rights problems.

-- Torture: ARA's version omits mention of torture methods. However, the guidelines approved last August by the Deputy Secretary for the preparation of all reports specifically request the inclusion of this information. ARA's editorial revision also softens the tone of this section; the same holds true for the opening words of the following section (on Cruel, Inhuman, or Degrading Treatment or Punishment).

ARA argues that adoption of the HA version would complicate our relations with the Argentine Government. However, Congress established the requirements to submit human rights reports for the purpose of obtaining objective, accurate, and comprehensive information on human rights conditions in all countries. The purpose of the report is not to praise, or condemn individual governments. The Deputy Secretary's guidelines call for both objectivity and specificity, and we have followed these norms in preparing all 155 reports. No report has been deliberately softened, toughened, or otherwise modified because of the state of our relations with the country concerned. We should not make an exception of Argentina.

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~~ROGER CHANNEL~~
FOR THE AMBASSADOR FROM STEDMAN

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SUBJECT: TREATY OF TLATELOLCO

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Buenos Aires 1963-79

~~LIMITED OFFICIAL USE~~ARGENTINA

HA VERSION

Over the past twenty-five years Argentina has passed through several cycles of alternating civilian and military rule; since 1955, there have been six military and six civilian presidents. Beginning in 1969, violence mounted progressively from the left and the right as groups with widely different political objectives and conceptions struggled for power.

[To deal with this violence *AS A RESULT, BOTH* and the resulting disorder,] civilian and military governments have maintained a "state of siege" for some nine of the past ten years. At the height of this violence in 1975-1976, terrorism had taken on broad dimensions: bombings, robberies, kidnappings and assassinations for political reasons were common occurrences. Organized terrorist groups on both sides of the political spectrum numbered some 5,000-6,000 persons, with sympathizers estimated at an additional 15,000.

By 1976 conditions in Argentina had deteriorated sharply. Courts and political leaders were being intimidated; inflation approached 800 per cent; and many essential public services had been disrupted. At this point, the Armed Forces again took control of the state, with the avowed goals of promoting economic recovery and ending terrorism and corruption. They promised that democracy would ultimately be restored.

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In 1976, the Armed forces again assumed control of the state. Conditions in Argentina had deteriorated sharply. Courts and political leaders were being intimidated; inflation approached 800 percent; and many essential services had been disrupted. Fighting what they perceived as an imminent threat to the social order, the Armed Forces maintained the state-of-siege imposed in 1974 by President Maria Estela Peron, closed Congress, and replaced the President and the Supreme Court. Military officers assumed key positions in state and many local governments; trade union and political activities were severely restricted.

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in 1974 by President Maria Estela Peron, closed Congress, deposed the President, and replaced all members of the Supreme Court. Military officers took over key positions in state and many local governments; most trade unions were intervened; political parties were banned and political activity severely limited.

To counter what was widely perceived as an armed insurrection and threat of an imminent breakdown of the existing social order, the security forces were permitted to embark on wide-ranging operations against terrorists and other groups considered subversive. Many known or suspected terrorists, as well as many persons with no [known or apparent] subversive record, disappeared. Many others were detained by the Executive without any specific charge under the "state of siege" powers of the Constitution.

The most carefully recorded and documented list of unexplained disappearances, compiled by the Permanent Assembly for Human Rights in Buenos Aires, contains about 6,500 cases for the period 1976 to 1979. Some estimates, however, run considerably higher.

There is substantial evidence that most of these persons were abducted by the security forces and interrogated under torture; as most have not reappeared, many observers believe that they were executed.

There have been reports, difficult to verify, that some missing persons have been seen alive in detention centers.

As regards use of the Argentine Executive's detention "state-of-siege" powers,

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(HA)
 Elect state and local government officials were replaced by military officers, and political party activities, including the right of assembly, were prohibited. Most trade union were intervened and all strikes were banned.
 The security forces embarked on a widespread counter-campaign of violence aimed at terrorists as well as elements of the society they considered subversive;

The authorities also spread a wide net against terrorism and groups considered subversive. Many persons disappeared without explanation, others were detained under the Executive's "state of siege" powers. While many known or suspected terrorists were apprehended, also caught in the net were many persons with no known or apparent connection with violence.

While serious human rights violations clearly still exist in Argentina, the trend in 1979 was one of improvement. The incidence of disappearances has declined sharply to low levels, and the number of prisoners held without charge under Executive detention has been substantially reduced. A presidential decree in April regularizing prison rules led to significant improvements in many prison facilities. The Government has promulgated controversial new trade union legislation and a political plan which sets forth guidelines for an eventual return to civilian rule. There is increasing evidence of judicial independence and, at the invitation of the Argentine Government, the Inter-American Human Rights Commission visited Argentina to investigate human rights abuses.

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some 8,200 persons have been arrested under these provisions since 1974, both by the present Government and its predecessor. While many of those so detained have been released, others have been held without trial for years. In the view of the Executive, the Argentine constitution places no specific time limit on detention under the "state of siege". Several courts (first-instance and appellate) held that such prolonged detention is in essence an imposition of punishment without due process, and hence unconstitutional. The Supreme Court, however, has overruled these lower court decisions and upheld the Executive's position.

In the past, Conditions of detention were often cruel, and serious problems of mistreatment, overcrowding, and insufficient medical care often existed. Although the Government asserts that torture was never authorized, there is extensive evidence that torture was ~~widely~~ ROUTINELY used during interrogation by the security forces. Since 1979, the use of torture appears to have been sharply reduced, parallel with the decline in the number of new disappearances.

Beginning In early 1978, Government spokesmen declared the war on terrorism to have been won. Conceding that excesses had been committed, the national authorities, through a variety of directives and personnel transfers, have sought to tighten control over the operations of the security forces. At the invitation of the Argentine Government, the Inter-American Human Rights Commission visited

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Argentina in September 1979 to investigate human rights abuses. The Commission interviewed many government, human rights, religious, political and labor officials, and had access to prisons and detention centers. A mission of the New York City Bar Association was also permitted to visit Argentina in 1979.

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Since 1978, the incidence of disappearances has declined significantly. They numbered many thousands in both 1976 and 1977, and over 500 in 1978; since then such occurrences have been sharply reduced. In 1979 there were 44 known disappearances, most of which occurred in the first half of the year. There are indications that the Government has committed itself to end this practice.

The number of prisoners held without charge under the Executive's "state-of-siege" has been reduced substantially; about 1,300 remained in late 1979. The Government has released large numbers of these detainees. An estimated 1,000 others have been tried and convicted and are still serving prison terms. About 500 more are currently on trial. A review board is working actively on cases of the remaining prisoners. A presidential decree in April regularizing prison rules led to significant improvements in many prison facilities.

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Political party activity continues to be prohibited and labor unions remain narrowly circumscribed; Government guidelines limit freedom of expression. The Government has promulgated new trade union legislation which sets forth guidelines for future labor union activity and lays a basis for lifting the present restrictions. The law has been criticized by Argentine and international labor organizations as a Government attempt to curtail organized labor's political and economic power.

In late 1979, the Government promulgated a "political plan" containing broad guidelines for an eventual return to civilian rule and a promise to develop specific proposals in 1980, following a dialogue between military leaders and diverse civilian groups.

Argentine human rights groups are active and well organized, although their leadership has ~~been~~ ^{several} been subject to harassment and arrest.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Torture

There is extensive evidence, primarily the statements of former detainees, that torture has been routinely used by the security forces. Reportedly, It has been most frequent during the first days

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2. Government Policies Toward the Fulfillment of Such Vital Needs as Food, Shelter, Health Care and Education:

Argentina is one of the most advanced of the newly industrialized nations. Indices of Argentina's standard of living are high. In 1978 per capita income in current dollars was \$2,331 and Argentine governments have -- within the economic constraints of recent years -- sought to confront social needs.

Unemployment in Argentina was only 1.8 percent in 1978; the distribution of income has become less equal in recent years, in part as a result of government policies designed to reduce inflation and revitalize the country's productive sector. Toward that end, the Government has made an effort to open the economy to external competition by lowering tariff protection, reducing subsidies, and limiting state involvement in the economy. Inflation, however, is still high, running at about 160 percent for the year.

The tax system is progressive and tax collections are increasingly effective, though compliance remains a problem.

Education has been free and is widely available, although the Government is now moving to require tuition for university-level education. Illiteracy is virtually non-existent. Health care programs account for a major share of the Government's budget. Government, private, and trade union medical care programs

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make treatment available and affordable to most of the population.

There is a serious housing deficit in Argentina, much of it attributable to now defunct legislation that sustained rent control guidelines. Corruption in the public sector has declined significantly under the current government.

3. Respect for Civil and Political Liberties, Including:

a. Freedom of Speech, Religion, and Assembly

The Argentine Constitution provides for these freedoms, but under both civilian and military governments they have been circumscribed since the imposition of the "state of siege" in November 1974. The climate of violence and repression in Argentina in recent years has made many Argentines fearful of exercising freedom of speech.

Since 1976 the Government has intervened or confiscated a number of newspapers, notably La Opinion, edited by Jacobo Timerman. Journalists have been among the Argentines who "disappeared". Although the press is not subject to prior official censorship, Government-imposed guidelines result in self-censorship. Newspapers have, however, actively criticized the Government on economic policy and have discussed political issues including, especially in recent months, human rights. Most foreign publications enter Argentina without censorship although occasionally some issues are censored for political

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and sexual content.

The Argentine Constitution requires that the President be a member of the Catholic Church, and the majority of Argentines profess this faith. Other religions are required to register with the Government; all but one are permitted to function, and there are substantial minority religious groups, including a 450,000 member Jewish community. There are credible reports of anti-Semitic attitudes and behaviour in the security forces, but the Government publicly condemns religious prejudice and maintains officially correct relations with the organized Jewish community. The Government has refused to permit the legal registration of the Jehovah's Witnesses who number approximately 30,000 in Argentina. Their properties and meeting places have been closed, and Witness children have been expelled from provincial school systems for refusing to salute the flag and sing the national anthem. Although the Supreme Court has now ruled in one case that primary school children should be allowed to return to school, the Witnesses still report instances at the local level where children are expelled from school for failure to respect national symbols.

Several human rights organizations, uniting activists and relatives of the disappeared, have played a significant role in Argentina over the past several years. Some leaders of these groups were harassed and threatened during 1979, and a police raid on the headquarters

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of three of the organizations in August raised questions about the future. The police action was ordered by a federal judge. The files of the organizations seized during the raids had not been returned to them by December, when this report was prepared. The "Mothers of the Plaza de Mayo" -- relatives of disappeared persons -- who used to assemble in front of the Ministry of the Interior Plaza de Mayo, were forcibly prevented from using the Plaza late in 1978 and early 1979 and were not permitted to return in 1979. Some of the "Mothers" themselves disappeared, including at least one during 1979.

b. Freedom of Movement Within the Country, Foreign Travel and Emigration

Argentines are free to travel without restriction within the country and to leave without restriction. They are free to emigrate. The Argentine Constitution permits persons held under executive detention (PEN) to choose self-exile. Exercise of this "right of option" was denied by the current government until 1978 and is still restricted through the use of an extensive screening process for all applicants. Many applications were denied during 1979, even though the applicants held documents authorizing them to enter other countries.

c. Freedom to Participate in the Political Process

After the March 1976 coup d'état, the Government restricted or suspended

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most elements of the democratic political process. It has expressed its intention of moving the country back toward normal constitutional, democratic processes but has not established a timetable for reaching this goal. In December 1979, the Government promulgated a "political plan" containing broad guidelines and a commitment for an eventual return to civilian government. The plan promises implementing legislation in the second half of 1980 following a dialogue between military leaders and diverse civilian groups.

The right of assembly for political groups has been suspended since March of 1976, but the Government has tolerated a low level of organized political activity by established political parties. Party leaders meet, spokesmen criticize a variety of government policies and actions, and proclamations are issued in the names of specific parties. Some informal meetings of party leaders have, however, been disrupted by the police, and the leaders detained for brief periods.

Argentine women enjoy equal juridical status with men. Women's rights are not a contentious issue in Argentina, as jobs and educational opportunities, along with support systems that facilitate the simultaneous handling of job and family, are readily available. Sex discrimination is prohibited in education, politics and employment. Tradition and social customs still dictate that a woman's primary responsibility is to

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husband and home and limits women's participation in the work force.

The government has intervened major trade unions, replacing high level union officials with military personnel, and strikes have been prohibited. In 1976, and again in mid-1979, the Government detained a number of important labor leaders (almost all have since been released). Strikes for wage increases have nevertheless occurred and nearly all have been settled without violence. On November 15, after more than three years of study, the government issued a new Trade Union law which sets the guidelines for Trade Union organization and lays the groundwork for lifting the suspension of union activities which has been in effect since the Armed Forces took power in 1976. It is not clear when the Government will lift the suspension of the right to strike and to bargain collectively. From the Government's point of view, the new law is designed to introduce more grass roots democracy and freedom of association for the workers than existed in the past; labor leaders, on the other hand, see it as an emasculation of union power, as it proscribes all political activity and greatly restricts control over social funds. The procedural steps for the implementation of the new law will not be clarified until the Ministry of Labor issues detailed regulations, which may take up to another 120 days to be drafted. The ICFTU has condemned the law as a violation of union

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In September 1979, two major groups of union leaders merged to form the United Leadership of Argentine Workers (CUTA), a provisional committee which purports to speak in the name of the organized Argentine trade union movement in the absence of an officially functioning national central body. Although enjoying no official standing or recognition by the Government, CUTA is active in making its views known. For example, CUTA opposes the recent trade union law on grounds that it restricts freedom of association and the right to organize as defined in conventions 87 and 98 of the International Labor Organization as ratified by the Argentine Government. It also opposes the new law's prohibition against political action by trade unions.

4. Government Attitude and Record Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights:

In late 1978, the Argentine Government invited the Inter-American Human Rights Commission to visit Argentina. That visit took place from September 6 to 20, 1979. The Commission met with President Videla and other high-level government, human rights, religious, political, and labor officials, took testimony from family members of disappeared persons and from former prisoners, and visited several prisons and detention centers. The Commission will submit its formal

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HA VERSION

report to the OAS in 1980. Argentina has not signed the American Convention on Human Rights.

The International Committee of the Red Cross (ICRC) maintains an active program in Argentina, with government approval, on behalf of imprisoned persons. The ICRC also monitors prison conditions. The Government has usually received and facilitated the efforts of various groups and individuals seeking to investigate allegations of human rights abuse. Foreign observers have generally corroborated allegations that abuses have taken place.

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